

BRIAN BAIRD

THIRD DISTRICT, WASHINGTON

COMMITTEE ON THE BUDGET

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COMMITTEE ON TRANSPORTATION  
AND INFRASTRUCTURE

<http://www.house.gov/baird>



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

DISTRICT OFFICES

1220 MAIN STREET, SUITE 360  
VANCOUVER, WA 98660  
(360) 695-6292

120 UNION AVENUE SE, SUITE 105  
OLYMPIA, WA 98501  
(360) 352-9768

WASHINGTON, DC OFFICE

1421 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3586

September 23, 2003

Bryant L. VanBrakle  
Secretary  
Federal Maritime Commission  
800 North Capitol Street, NW  
Washington, DC 20573

RE: Petition P3-03

Dear Commissioners:

It is my understanding that UPS as well as other Non-Vessel Operation Common Carriers (NVOCC) have filed for an exemption from the prohibition on NVOCCs from entering into confidential contracts with their customers. Due to recent developments within the ocean shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised. I write in strong support of UPS and various other NVOCCs petitions currently pending before the FMC.

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990's, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

Due to the noticeable changes within the ocean shipping marketplace, including but not limited to the unprecedented amount of consolidations among ocean carriers, many ocean carriers, in an effort to offer customers a full range of services have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail and NVOCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its asset-based transportation infrastructure.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and

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vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the **UPS** and other pending NVOCC petitions its utmost consideration and render an equitable decision on this matter based upon the merits of these cases.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Baird', with a long horizontal flourish extending to the right.

Brian Baird  
Member of Congress